

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND**

Christopher Litrell in his official capacity as the President of the P25R Parent Teacher Association; J.T., a minor, by and through his parent and natural guardian A.T.; R.L., a minor by and through his parent and natural guardian C.L.; S.B., a minor, by and through her parent and natural guardian, R.B.; J.M., a minor, by and through his parent and natural guardian, J.M., each on behalf of themselves and a class of those similarly situated,

Index No.: 151831/2021

Plaintiffs,

-against-

New York City Department of Education, City of New York,
and Bill De Blasio, in his capacity as Mayor of the City of
New York,

Defendants.

**DECLARATION OF NATRAJ S. BHUSHAN IN SUPPORT OF
ORDER TO SHOW CAUSE**

I, Natraj S. Bhushan, declare the following under penalties of perjury:

1. I am counsel for plaintiffs. in this proceeding. As such, I am familiar with the factual background and exhibits submitted with the instant application, which seeks to *enjoin*, Defendants from removing, replacing, or otherwise enforcing their COVID-19 Vaccine mandate (set to go into effect on October 1, 2021 at 5:00PM) in any manner that interferes with the minor, special needs Plaintiffs' highly specialized and legally binding Individual Education Plans.

BACKGROUND FACTS AND PROCEDURAL POSTURE

2. Annexed hereto as **Exhibit A** is a true and correct copy of the Verified Complaint ("Comp."), which sets forth the salient facts that give rise to this motion. The Complaint was originally filed in the Supreme Court of the State of New York, Richmond County under Index No.:151831/2021.

3. *In pertinent part, the Complaint alleges that, “Defendants will replace all teachers and staff that are not vaccinated by the start of the school day on October 4, 2021 regardless of the suitability of the substitute teachers and staff. Nevertheless, Plaintiffs are special needs children with carefully crafted IEPs and, cannot be instructed and cared for by unqualified substitutes. Accordingly, Defendants should be temporarily enjoined from placing any of their P25R teachers and staff that are not in compliance with the Mandate on leave without first ensuring that there are sufficiently trained, licensed and IEP-compliant teachers and staff that are ready, willing, and able to substitute into their place to instruct the Plaintiffs on October 4, 2021.”* Comp. at 14.

4. By Order to Show Cause filed with the Supreme Court on September 30, 2021, the Plaintiff sought the same injunctive relief that is sought in this motion. Notably, all defendants’ counsel (NYC Law Department) received notice of the date, time, and place of the application (i.e., this afternoon), however, minutes before oral argument on the motion before Hon. Lizette Colon on October 1, 2021 at (or around) 12:00PM, the Defendants’ counsel filed a Notice of Removal to this Court.

5. As all Defendants are aware of the motion and the Plaintiffs will, in all likelihood, suffer imminent harm if the application for a temporary restraining order is not immediately heard , it is respectfully requested that Defendants have sufficient notice of this motion and argument before your Honor shall take place as soon as possible.

2. Annexed hereto as **Exhibit B** is a blank copy of an IEP to illustrate for the Court how detailed this legally binding education plan is as well as the level of meticulous coordination that goes into crafting an education plans for a special needs child of which all of the Plaintiffs (and proposed class members) are. In fact, so important are these plans that the United States

Supreme Court has stated that an IEP is the “centerpiece of the statute's education delivery system for disabled children.” *See, Honig v. Doe*, 484 U.S. 305 (1988).

3. Annexed hereto as **Exhibit C** is a copy of defendant New York City Department of Education Commissioner’s Welcome Back letter dated September 13, 2021, which reiterated Defendants pledge to make every resource available to serve students with IEPs.

CONCLUSION

4. For all the foregoing reasons and those set forth in greater detail in the accompanying Memorandum of Law (and any ensuing oral argument), it is respectfully requested that the Court grant the narrowly requested injunctive relief and issue the requested temporary restraining order so as to ensure that Plaintiffs (and similarly situated special needs children with IEPs) do not have their carefully crafted education and related therapies disrupted for any period of time.

5. *Lastly, this is a first request for the relief sought herein.*

WHEREFORE, it is respectfully requested that this Order to Show Cause be granted in its entirety together with such other and further relief this Court deems just, proper and equitable.

I declare under penalty of perjury under the laws of the United States of America and New York that the foregoing is true and correct.

Dated: October 1, 2021
Brooklyn, New York

/s/ Natraj S. Bhushan